

Please note: These minutes have not been reviewed or approved by the Board of Medicine and Surgery.

MINUTES OF THE MEETING  
OF THE  
BOARD OF MEDICINE AND SURGERY

November 3, 2006

The meeting of the Board of Medicine and Surgery was called to order by Chairman Michael Sitorius, MD at 9:04 a.m. on Friday, November 3, 2006, at Staybridge Suites, Staybridge Room, 2701 Fletcher Ave, Lincoln, Nebraska. The following members answered to roll call:

Michael Sitorius, Chairman  
David Dryburgh, Vice-Chairman  
Carl V. Smith, MD, Secretary  
Larry E. Bragg, MD  
Randy T. Kohl, MD  
Vonn E. Roberts, MD  
Arthur A. Weaver, DO

Absent: Samuel L. Brown, PhD

A quorum was present and the meeting convened.

Also present to participate in the meeting: Terri Nutzman, Assistant Attorney General; Robert Semerena, Investigations Division Administrator; Susanne Rydberg, Investigator; Becky Wisell, Section Administrator, Credentialing Division; Vicki Bumgarner, Credentialing Coordinator, Credentialing Division; Meegan Dyrland, Credentialing Specialist, Credentialing Division.

ADOPTION OF AGENDA

Kohl moved, seconded by Dryburgh, to adopt the agenda. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

APPROVAL OF MINUTES OF THE MEETING FROM AUGUST 16, 2006 and SEPTEMBER 22, 2006

Smith moved, seconded by Kohl, to approve the minutes of the August 16, 2006 and September 22, 2006 meeting. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

FEDERATION OF STATE MEDICAL BOARDS PRESENTATION

Lee Smith, MD, Immediate Past Chair and Tim Knettler, MBA, Vice-President, presented information regarding the functions of the Federation of State Medical Boards (FSMB).

One of the important issues discussed related to competency based licensure. A special committee has formed on this topic. The current licensure system is 100 years old and is based on when physicians stayed in the same location and technology and practices did not change frequently. The FSMB House of Delegates voted to make the move toward competency based licensure. Guidelines are being worked on and as more information is available, it will be shared with member Boards. The FSMB would not anticipate any implementation of competency based licensure for at least 5-6 years. Any guidelines issued by the FSMB would have to be accepted into law or regulation by each state.

Jeff Newman, Investigator, entered the meeting at 9:38 a.m.

Pat Lemke and Sharon Fitts, Investigators, entered the meeting at 9:39 a.m.

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### INVESTIGATIONAL REPORTS

Smith moved, seconded by Bragg, to go into closed session for the purpose of hearing investigational reports. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried and the meeting went into closed session at 10:27 a.m.

Smith recused himself at 10:28 a.m.

Smith returned to the meeting at 10:38 a.m.

Kohl recused himself at 10:49 a.m.

Roberts recused himself at 10:49 a.m.

Kohl returned to the meeting at 10:59 a.m.

Roberts returned to the meeting at 10:59 a.m.

The meeting returned to open session at 11:47 a.m.

### PRACTICE QUESTIONS

#### Botox Injections and Lipodissolve Injections

Joe Acierno, Legal Counsel, Nebraska Department of Health Services Regulation and Licensure, discussed with the Board practice questions that have been frequently asked of their profession. Acierno affirmed that physicians cannot delegate duties that are the practice of Medicine and Surgery to non-physicians, unless the particular duty is a part of the scope of practice of a licensed individual. The Board discussed the many new procedures that are becoming available and the importance of establishing the framework to deal with these questions in the future. They decided to establish a work group to study this matter and report to the Board. The members on the work group will be decided on in the future.

The Board did not take a position on the practice issues of Botox Injections and Lipodissolve Injections because of the decision to establish the work group.

### PHYSICIAN APPLICATION REVIEW & DISPOSITION

#### Initial Licensure

Joseph Boyle, MD-Smith moved, seconded by Bragg, to approve issuance of a license to Boyle. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

Frederick Gramith, MD-Dryburgh moved, seconded by Smith, to approve issuance of a license to Gramith. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

Neelofur Nazeer, MBBS-Smith moved, seconded by Kohl, to approve issuance of a license to Nazeer. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

Jan Woods, MD-Bragg moved, seconded by Roberts, to approve issuance of a license to Woods upon completion of her application. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

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Robert Hieb, MD-Smith moved, seconded by Dryburgh, to approve issuance of a license to Hieb. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

Heidi Tetherow, MD-Tetherow was previously denied a permanent license, had her Temporary Educational Permit (TEP) suspended for a mandatory four months and most recently, had a probationary TEP issued for one year. She is now applying for a permanent license. Smith moved, seconded by Roberts, to approve issuance of a probationary license for Tetherow. The term of probation would be four years and the conditions would be similar to her most recent probationary TEP. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

Michael Pietila, MD- Smith moved, seconded by Dryburgh, to approve issuance of a license to Pietila. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried

Ronald Hublall, MD-Smith moved, seconded by Roberts, to approve issuance of a license to Hublall. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

Ellis McCarthur, MD-Roberts moved, seconded by Smith, to recommend denial of a license to McCarthur. The basis for this denial is: 1) Failure to cooperate with an investigation 2) misdemeanor conviction and 3) misrepresentation of material facts on license his application. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

#### PHYSICIAN ASSISTANT APPLICATION REVIEW & DISPOSITION

##### Application to Supervise a Third Physician Assistant

James Biskup, MD-Biskup is requesting approval to supervise a 3<sup>rd</sup> physician assistant. The Board granted him permission to supervise this same physician assistant (Jessica Francis) as a 3<sup>rd</sup> physician assistant on June 30, 2006. Ms. Francis' supervisor was then switched to Dr. Hurd. Dr. Hurd is now leaving the practice and they wish to have Dr. Biskup supervise Francis until another physician joins the practice. Roberts moved, seconded by Smith, to approve the application for a 12 month period of time. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

#### CONFIRMATION OF MEETING DATES FOR 2007

The Board confirmed the dates of the 2007 meeting schedule. They are as follows: January 26, March 9, April 13, June 15, July 27, September 14, October 26 and December 14.

#### DISCIPLINARY INFORMATION – ACTIONS TAKEN & PENDING

The Board reviewed actions taken and pending since the last meeting.

#### FINANCIAL REPORT

The Board reviewed the status of the budget as of September 30, 2006.

#### NEW EXPENSE REIMBURSEMENT POLICIES

Wisell reviewed the policy and new form being used for expense reimbursement.

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## LEGISLATION FOR 2007 – UNIFORM LICENSING LAW REWRITE

Wisell reviewed with the Board the latest modifications made for the Uniform Licensing Law (ULL) Rewrite.

First, the previous draft of the ULL included provisions to increase the public membership on all boards. This was based on input through the Nebraska Credentialing Reform (NCR) 2000 study. The Governor's office has directed that there be no increase in board membership at this time.

Secondly, the draft now includes the following language regarding licensure:

"A credential may only be issued to a citizen of the United States, an alien lawfully admitted into the United States who is eligible for a professional or commercial license under 42 U.S.C. 1621, or a nonimmigrant whose visa for entry is related to such employment in the United States."

The Board would like Wisell to inform the Deans of graduate medical education of the Nebraska medical schools of this change.

The ULL rewrite committee is reviewing again the issue of licensure by endorsement.

Previously, the Board has recommended the removal of the language referencing abortion under professional conduct removed from their draft Practice Act. They felt this type of language didn't belong in the Practice Act and oppose singling out specific events as unprofessional conduct. Wisell informed the Board that this language will be kept in the draft Medicine and Surgery Practice Act. As before, Smith again expressed his objection to this language.

Comments are still being received up until November 15.

## ACUPUNCTURE

### First Professional Doctoral Degree

The Board reviewed information concerning the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) announcement of the development of the first professional doctorate degree for Acupuncturists.

### HR Bill 5688 – Healthcare Truth & Transparency Act of 2006

The Board discussed HR 5688, a bill before the United States Congress. HR 5688 is the Healthcare Truth and Transparency Act. It would prohibit any person who is a licensed health care service provider but who is not a medical doctor or a doctor of osteopathic medicine, dental surgery, or dental medicine from making any statement or engaging in any act that deceives or misleads the public into believing the person is a doctor or has the same or equivalent education.

### Veterinary Collaborative Practice

The Board reviewed a letter from the Veterinary Board of Medicine and Surgery, which informed them that the Veterinary Board is currently studying the state of collaborative practices that impact animal health and veterinary medicine and surgery. Wisell, who also works with the Board of Veterinary Medicine, stated that this was sent to the Board because of their oversight of acupuncture. Acupuncture is becoming a more common practice on animals, but the Board of Veterinary Medicine and Surgery regards this as being within their scope of practice.

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FSMB ISSUES

#### Call for Committee Appointments

Weaver moved, seconded by Smith, to support Dryburgh and Kohl if they wish to run for the Federation of State Medical Boards By-Laws Committee and Board of Directors, respectively. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

#### Call for Resolutions

The board received notice from the FSMB that the deadline for submitting resolutions is February 16, 2006.

Roberts stated that he would like to have the FSMB to define the term Board Certified. He will draft a proposal to this effect for the Board to review at the next meeting.

#### Proposals for Changes to Bylaws

The Board received a request from the FSMB for proposals for changes to the Bylaws. The proposal to define a public member was not supported, therefore will not be included in the bylaws. Dryburgh is a member of the Bylaws committee.

#### ALL HEALTH CARE RELATED BOARD MEETING SURVEY

Wisell explained the survey that she would like all board members to fill out regarding what topics they would like to be discussed, timing of meetings and location of the meeting. The Board discussed some ways to make this meeting more specific and helpful to Board members such as individual Board retreats.

#### PHARMACEUTICAL CARE AGREEMENTS

The Board reviewed the pharmaceutical care agreements submitted by Douglas Synek and Chanel Helgason, MD, Giavanna Bouthiette, MD, Gene Wyse, DO, Susan Howard, MD; Michael Miles and Alan Jensen, MD and Irma Deyle and Gregory Stanislav, MD.

Wisell told the Board that the Board of Pharmacy will be discussing if it's appropriate for someone who is not a pharmacist to utilize the Pharmaceutical Care Agreements at their next meeting.

Smith moved, seconded by Roberts to approve Weaver attending the annual American Association of Osteopathic Examiners meeting, held in January 2007. Voting aye: Sitorius, Dryburgh, Bragg, Kohl, Roberts, Smith. Voting nay: None. Absent: Brown. Motion carried.

Sitorius interviewed with the Board of Health for his reappointment to the Board of Medicine. Sitorius noted some key issues he discussed with the Board of Health. He expressed his concern for the need of more resources, specifically staff, in Investigations and Credentialing. He was also concerned about changes in the Board's recommendations as it moves to the Department decision-making authorities. Sitorius asked the Board if it was acceptable for him to contact other board chairs who are concerned with this to see what can be done to better the communication process when these changes occur. He also encouraged and welcomed the Board of Health members to come to any meetings of the Board.

Roberts moved, seconded by Kohl to endorse Sitorius' reappointment to the Board of Medicine and Surgery. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Brown. Motion carried.

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ADJOURNMENT

There being no further business, the meeting adjourned at 1:45 p.m.

Respectfully submitted,

Carl V. Smith, Secretary  
Board of Medicine and Surgery